

Application No. 09/618,066  
Attorney Docket No. 5725.0656-00

### **REMARKS**

#### **I. Status of the Claims**

Claims 157-161 and 168-174 are currently pending. Claims 159, 161, 168, and 172 have been amended herein, and new claims 173 and 174 have been added.

Support for the amendments of claims 159, 161, 168, and 172 can be found in the originally-filed specification, for example on page 1, lines 5-6, reciting that the composition "may give a . . . non-migrating deposit when applied."

Support for new claim 173, specifying a composition for making up at least one keratinous material, can be found in the originally-filed specification, for example on page 1, lines 1-2. Support for new claim 174 can be found in the originally-filed specification, for example on page 13, lines 5-14, reciting Uniclear® and that Uniclear® may be "mixtures of copolymers derived from monomers of (i) C<sub>36</sub> diacids and (ii) ethylenediamine . . . ." See also International Cosmetic Ingredient Dictionary and Handbook ("CTFA") page 606 (attached herewith as Exhibit 1), reciting that ethylenediamine/stearyl dimer tallate copolymer is at least one copolymer of ethylenediamine and tall oil dimer acid monomers, end-blocked with stearyl alcohol and further reciting that a trade name for ethylenediamine/stearyl dimer tallate copolymer is Uniclear®. Thus, the specification reasonably conveys the use of at least one ethylenediamine/stearyl dimer tallate copolymer to make a mascara and using a mascara comprising at least one ethylenediamine/stearyl dimer tallate copolymer. Accordingly, no new matter has been added.

Moreover, Applicants point out that essentially the same language, "at least one polyamide polymer chosen from ethylenediamine/stearyl dimer tallate copolymer,"

Application No. 09/618,066  
Attorney Docket No. 5725.0656-00

appears in claims 1 and 3 of U.S. Patent No. 6,716,420 B2, recently issued on April 6, 2004. In those patent claims, as well as new claim 174 of the present application, "copolymer" is properly used in the singular because the term is generic, covering both a single copolymer and more than one copolymer.

The specification reasonably conveys the claimed subgenus covering both a single copolymer and more than one copolymer. The specification discloses that "[i]n general" the polymers are in the form of mixtures, clearly indicating that a single polymer is also contemplated. Specification at page 11, lines 15-19. Hence, "at least one polymer is chosen from ethylenediamine/stearyl dimer tallate copolymer," as set forth in claim 130, defines a subgenus covering a single polymer and more than one copolymer. For at least those reasons, Applicants submit that claims 157-161 and 168-174, as amended, add no new matter and are definite.

## II. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request consideration of this application and the timely allowance of the pending claims.

Application No. 09/618,066  
Attorney Docket No. 5725.0656-00

Please grant any extensions of time required to enter this response and charge  
any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON,  
FARABOW, GARRETT & DUNNER, L.L.P.

Dated: June 2, 2004

By: Erin C DeCarlo  
Erin C. DeCarlo  
Reg. No. 51,688

Telephone No.: 404-653-6464

**Attachments:**      **Exhibit 1 -** International Cosmetic Ingredient Dictionary  
and Handbook ("CTFA") page 606